

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

VERNON R. JOHNSON,

Petitioner,

vs.

ROB JEFFREYS,

Respondent.

4:23CV3024

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's Motion to Vacate Judgment and Conviction and Discharge of Sentence. [Filing No. 13](#). Petitioner asks the Court to grant his motion and immediately discharge him from the custody of the Nebraska Department of Correctional Services because Respondent "has elected not to respond to the Court's Memorandum and Order to file an Answer or Summary Judgment or state court records in support of an answer" by the September 5, 2023 deadline. *Id.* (spelling and punctuation corrected).

Contrary to Petitioner's assertion, Respondent filed a Designation of State Court Records in Support of Answer, [Filing No. 12](#), on September 5, 2023, in accordance with the Court's July 19, 2023 progression order, [Filing No. 7](#). Respondent included a certificate of service with his Designation certifying that the Designation was mailed to Petitioner on September 5, 2023, so it appears Petitioner simply had not received notice of Respondent's filing before he filed his motion on September 7, 2023. See [Filing No. 12 at 3](#); [Filing No. 13 at 2](#). Respondent now has until October 5, 2023, to file his answer

and supporting brief, and Petitioner will have 30 days thereafter to file and serve his brief in response.¹ Accordingly,

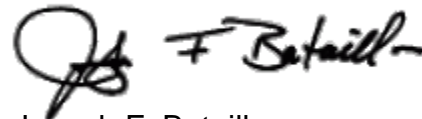
IT IS ORDERED that:

1. Petitioner's Motion to Vacate Judgment and Conviction and Discharge of Sentence, [Filing No. 13](#), is denied.

2. The Clerk of Court is directed to set a pro se case management deadline using the following text: **October 5, 2023**: Respondent's answer and brief due.

Dated this 11th day of September, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon". The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

Joseph F. Bataillon
Senior United States District Judge

¹ If Respondent files his answer and brief on October 5, 2023, then Petitioner would have until November 6, 2023 to file his brief in response.